

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>MARCUS CARDER,</b>	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. 14-61Erie</b>
	)	
<b>v.</b>	)	
	)	<b>District Judge Motz</b>
<b>SFT. JOHN KENDZIORA, et al,</b>	)	<b>Magistrate Judge Baxter</b>
<b>Defendants.</b>	)	

**MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

**I. RECOMMENDATION**

It is respectfully recommended that this case be closed due to the filing of an Amended Complaint at Civil Action Number 13-349E.

**II. REPORT**

**A. Relevant Procedural History**

By a telephonic hearing held on March 24, 2014, in this and several other pending cases, Plaintiff was directed to file an Amended Complaint at Civil Action Number 13-349E consolidating all of his claims against all of his named Defendants. ECF No. 9. Correct Complaint forms were sent to Plaintiff and he was ordered to file the Amended Complaint within twenty days of the hearing.

On April 17, 2014, Plaintiff filed a Motion to Reopen Case in Civil Action Number 13-349E, along with a document this Court has liberally construed as Plaintiff’s proposed Amended

Complaint. As discussed at the March 24<sup>th</sup> hearing, the filing of the Amended Complaint at 13-349E renders the complaint at the above-captioned case number duplicative.

### **III. CONCLUSION**

For the foregoing reasons, it is respectfully recommended that this case be dismissed with prejudice.

In accordance with 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72, the parties must seek review by the district court by filing Objections to the Report and Recommendation within fourteen (14) days of the filing of this Report and Recommendation. Any party opposing the objections shall have fourteen (14) days from the date of service of Objections to respond thereto. See Fed.R.Civ.P. 72(b)(2). Failure to file timely objections may constitute a waiver of appellate rights. See Brightwell v. Lehman, 637 F.3d 187, 194 n.7 (3d Cir. 2011); Nara v. Frank, 488 F.3d 187 (3d Cir. 2007).

/s/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
United States Magistrate Judge

Dated: April 28, 2014